

Remarks

Claims 1-30 are pending in the application.

Information Disclosure Statement

Applicants respectfully request that the Examiner initial and return copies of the 1449 forms that were submitted under cover of Information Disclosure Statements received by the U.S. Patent and Trademark Office on October 2, 2001 and January 2, 2002. Copies are enclosed for the convenience of the Examiner.

Claim Rejections Under 35 USC § 103

The Examiner rejects claims 1-6, 8-14 and 16-18 under 35 U.S.C. § 103(a) as obvious over U.S. Pat. No. 4,605,005 to Sheehan. The Examiner states that the Sheehan reference discloses a pressure sensitive adhesive, opposing elastomeric end portions, a bridging portion, an elastomeric back, and a reinforcing layer. The Examiner acknowledges that Sheehan does not disclose stretching properties but asserts that it would have been obvious to one skilled in the art that the Sheehan device could be fabricate with the same stretching and recovery percentages, which "do not provide any novelty or criticality over the prior art."

Applicants submit that the Examiner has failed to present a *prima facie* case of obviousness with respect to the present claims for the following reasons. As stated in MPEP 2143, obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. Applicants submit that there is no teaching, suggestion, or motivation to modify or combine Sheehan, and furthermore, that the Sheehan reference fails to teach the limitations of Applicants' claims.

Sheehan discloses a strip that includes a "resilient element" that "is deformable such that it can be collapsed or flattened into a planar configuration during application, and will then return to a convex shape" after the strip is applied (col 3, lines 4-8). The



resilient element is sufficiently rigid to evert the skin, such as “a 0.005 inch co-polyester film” (col 4, line 4) or aluminum (col 4, lines 61-64).

The Examiner stated that it would have been obvious to one of skill in the art that “the wound closure as disclosed by Sheehan could be fabricated to stretch the same percentage. . . and recovery from stretching. . . in order to use the wound closure to close the wound.” Applicants respectfully submit that stretchability of the wound closure or its elements is not an objective of Sheehan. Therefore, there is no motivation to modify the teachings of Sheehan.

Further, the resilient member of Sheehan is designed to “evert” the wound. As defined in the American Heritage Dictionary (4th Ed. 2000), “evert” means “to turn inside out or outward.” Modifying Sheehan’s disclosure to meet the limitations of Applicants’ claims, i.e. a polymeric film less than 75 microns as provided in Applicants’ claim 18, would destroy the “everting” feature as taught and claimed by Sheehan.

The Examiner rejects claims 7 and 15 under 35 U.S.C. § 103(a) as obvious over U.S. Pat. No. 4,605,005 to Sheehan in view of U.S. Publication No. 2001/0037077 A1 to Wiemken. The Examiner states that Sheehan fails to disclose end portions having unequal lengths, and relies on Wiemken for that disclosure. Applicants note that the effective filing date of the Wiemken reference is based on a provisional filing on May 5, 2000. Applicants filing date is September 27, 2000. Applicants expressly reserve the right to file a 1.131 affidavit to swear behind the reference.

The Examiner further rejects claims 19-30 under 35 U.S.C. § 103(a) as obvious over U.S. Pat. No. 4,605,005 to Sheehan in view of U.S. Publication No. 2001/0037077 A1 to Wiemken and GB Patent No. 831,401 to Blackford. The Examiner acknowledges that Sheehan and Wiemken fail to disclose a wound bridging portion having a width less than the end portions and relies on Blackford for that disclosure. The Examiner points to no motivation to combine the references, and even if combined, the Wiemken and Blackford references fail to cure the deficiencies of Sheehan. Further, the Wiemken and Blackford references fail to teach or suggest the method of aligning the wound closures to close the wound, as provided in Applicants’ claim 25 and shown in Fig. 4.

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For the reasons recited herein, Applicants submit that the cited art fails to provide a teaching or suggestion to make the combinations and/or modifications discussed herein with a reasonable expectation of success. Applicants respectfully submit that the Examiner has failed to establish a *prima facie* case of obviousness and request that the rejections based on 35 U.S.C. § 103(a) be withdrawn.

Conclusion

In view of the arguments and amendments offered herein, Applicants respectfully submit that the Examiner's grounds for objection and rejection are overcome and respectfully solicit reconsideration and withdrawal of the rejections and allowance of the application.

Respectfully submitted,

Nancy M. Lambert

Nancy M. Lambert
Registration No. 44,856
Attorney for Applicants

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Office of Intellectual Property Counsel
3M Innovative Properties Company
P.O. Box 33427
St. Paul, Minnesota 55133-3427
(651) 733-2180
Facsimile: (651) 736-3833

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